

Case 1:08-cv-00356-WDQ Document 76

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*MOTION "GRANTED" THIS
4th DAY OF
December 2009
Via ECF and WILLIAM D. QUARLES, JR.
UNITED STATES DISTRICT JUDGE*
December 3, 2009

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BY DEPUTY

The Honorable William D. Quarles, Jr.
United States District Court for the District of Maryland
U.S. Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

Re: Fluxo-Cane Overseas, Ltd. v. E.D.& F. Man Sugar, Inc.
Case No. 08-cv-356 (WDQ)

Dear Judge Quarles:

We are counsel for Defendant ED & F Man Sugar. As this Court is aware, the outcome of this case is directly linked to a case between the parties now pending in the United Kingdom (the "English Action"). Following full briefing of all pre-trial issues raised by Plaintiff and the denial of Plaintiff's dispositive motions—including a motion for reconsideration of the denial of the Plaintiff's dispositive motions—the Court held a pretrial conference on October 30, 2009. In the Proposed Pretrial Order, the parties stipulated that the trial in the English Action was scheduled to begin on November 22, 2009. During the October 30th conference, the Court indicated that there was no good reason for this action to proceed ahead of the English Action, and scheduled the trial in this case for July 12, 2010. That date was chosen, in part, to ensure that the English Action would be resolved beforehand, possibly obviating the need for a trial (or further proceedings) in this case. At the conference the parties also indicated that settlement discussions were underway to resolve all issues in both the English Action and this case.

The trial in the English Action commenced as scheduled on November 22, 2009. We understand closing arguments are taking place today. The English judge should issue the court's judgment presently. Despite all this, Plaintiff, on November 25, 2009, moved yet again for summary judgment on its claim, again seeking to dismiss Defendant's set-off claim, and requesting a hearing "as soon as possible." The return date for Defendant's opposition papers is December 14, 2009. None of this is necessary. Given the Court's directions at the pre-trial conference and the rapid progress of the English Action, yet another round of dispositive motions in this case, on issues previously addressed and decided by the Court, and a resulting hearing, would needlessly waste the parties' and the Court's judicial resources. Defendant should not have to invest yet more time and money responding to Plaintiff's duplicative motions, the more so when the English action will, this evening, be *sub judice* with the English judge.